HIGH COURT OF AUSTRALIA

NOTICE OF FILING

This document was filed electronically in the High Court of Australia on 21 Aug 2026 and has been accepted for filing under the *High Court Rules 2004*. Details of filing and important additional information are provided below.

Details of Filing

File Number:	M50/2026
File Title:	White Australia Party Inc. & Anor v. The Commonwealth of A
Registry:	Melbourne
Document filed:	Form 27C - Intervener's Submissions (A-G of Victoria)
Filing party:	Interveners
Date filed:	21 Aug 2026

Important Information

This Notice has been inserted as the cover page of the document which has been accepted for filing electronically. It is now taken to be part of that document for the purposes of the proceeding in the Court and contains important information for all parties to that proceeding. It must be included in the document served on each of those parties and whenever the document is reproduced for use by the Court.

IN THE HIGH COURT OF AUSTRALIA
MELBOURNE REGISTRY

BETWEEN:

WHITE AUSTRALIA PARTY INC
First Plaintiff

THOMAS ANTHONY SEWELL
Second Plaintiff

and

THE COMMONWEALTH OF AUSTRALIA
First Defendant

THE ATTORNEY-GENERAL OF THE COMMONWEALTH
Second Defendant

SUBMISSIONS OF THE ATTORNEY-GENERAL FOR VICTORIA (INTERVENING)

PART I — CERTIFICATION

1. These submissions are in a form suitable for publication on the internet.

PARTS II AND III — INTERVENTION

2. The Attorney-General for Victoria intervenes in this proceeding pursuant to s 78A of the *Judiciary Act 1903* (Cth), in support of the defendants.

PART IV — ARGUMENT

3. Victoria makes no submission in respect of the first of the referred questions, being whether Pt 5.3B of the *Criminal Code* (Cth) (**Code**) is supported by a head of Commonwealth legislative power. As to the second and third questions (SCB 175 [230]), Victoria adopts the submissions of the defendants (DS [29]-[61]) and advances the following additional submissions.

4. As to **Question 2** — whether Pt 5.3B infringes the implied freedom of political communication — Victoria submits that:

   4.1 In its operation with a prohibited hate group regulation, the *burden* imposed by Pt 5.3B is properly characterised as incidental and slight. The Part does not directly deny or restrict political communication, its operation is narrowly circumscribed, and the types of communication that could reasonably be expected to be burdened are (to the extent not independently unlawful) communications at the margins of what is protected by the implied freedom.

   4.2 The purpose of Pt 5.3B is most appropriately described as being to protect the Australian community from organisations that engage in conduct that seriously harms the community and poses a threat to the security of the Commonwealth and the system of representative democracy (DS [44]). Having regard to *Farmer v Minister for Home Affairs*,[1] that purpose should be held to be both legitimate and important, including because it enhances the system of representative government that the freedom exists to protect.

   4.3 In these circumstances, and in the absence of the plaintiffs having identified any substantially less restrictive alternatives, the burden imposed by Pt 5.3B should be found to be justified.

[1] (2025) 99 ALJR 1408.

5. As to **Question 3** — whether Pt 5.3B is invalid on the basis that it infringes Ch III of the Constitution — Victoria submits that, if the validity of a power to impose a detriment on a body corporate is to be analysed through the application of the *YBFZ* framework,[2] that application may differ in a number of significant respects from its application to natural persons. In particular, the powers that may be characterised as prima facie punitive may be more limited, the range of legitimate purposes for such powers may be broader, and the powers may more readily be characterised as reasonably capable of being seen as necessary for such purposes.

(a) The scope and operation of Pt 5.3B of the Code

6. The questions of "constitutional power" (PS [20]) raised by the plaintiffs in their application relate to the validity of Pt 5.3B of the Code simpliciter (SCB 175 [230]). To answer those questions, it is necessary to be specific about what the Part entails.

7. Part 5.3B has two distinct components.

7.1 *First*, in Div 114A, the Part provides for the making of a "prohibited hate group regulation" by the Governor-General in the exercise of her regulation-making power under s 5(1) of the *Criminal Code Act 1995* (Cth) (**Act**), along with related procedural provisions. That aspect of the Part is described in DS [7]-[8], and is addressed in relevant respects in paragraphs 19-21 below.

7.2 *Secondly*, in Div 114B, the Part provides for a series of offences that may be committed if, after an organisation has been specified by regulation as a "prohibited hate group", a person remains a member of, or takes other actions in support of, the group. Each offence provision hinges upon the making of an advertent choice by the person to continue to associate with, or take some action with respect to, a prohibited hate group.[3]

8. Significantly, the Part is only capable of having operative effect on an organisation or its members once the organisation has been specified by regulation as a prohibited hate

---

[2] See *YBFZ v Minister for Immigration, Citizenship and Multicultural Affairs* (2024) 99 ALJR 1, especially at [16], [18] (Gageler CJ, Gordon, Gleeson and Jagot JJ).

[3] See ss 114B.1(1)(a) and (c) ("intentionally directs the activities of an organisation … know[ing] the organisation is a prohibited hate group"), 114B.1(2)(a) and (c) ("intentionally directs the activities of an organisation … reckless as to whether the organisation is a prohibited hate group"), and the analogous framing in: ss 114B.2(1)(a) and (c) (membership of a prohibited hate group); 114B.3(1)(a) and (c) and (2)(a) and (c) (recruiting for a prohibited hate group); 114B.5(1)(a) and (c) and (2)(a) and (c) (getting funds to, from or for a prohibited hate group); 114B.6(1)(a) and (c) and (2)(a) and (c) (providing support to a prohibited hate group). Section 114B.4 is in different terms, but to similar general effect.

group. Absent such specification, the Part imposes no restrictions on the conduct of any organisation or person. Despite that, the plaintiffs' challenge is confined to the constitutional validity of the statute: they do not seek to impugn the regulation specifying the first plaintiff as a prohibited hate group,[4] as addressed further in paragraphs 11 and 39 below.

9. The plaintiffs' submissions misdescribe the consequences of a prohibited hate group regulation made under Pt 5.3B in two significant respects:

9.1 *First*, the plaintiffs frequently describe the effect of specification as being the "elimination" or "destruction" of the prohibited hate group (cf PS [59], [71] and [74], see also [63]). It may be accepted that specification of a prohibited hate group has the practical effect of stopping its operations (see, eg, PS [94]). However, the extent of the restriction is that which derives from the offence provisions in Div 114B. To the extent that the plaintiffs seek to raise a complaint about the potential cancellation of the first plaintiff's incorporation (SCB 82 [38]), such a complaint would relate to potential administrative action taken by a Victorian regulator under an entirely separate piece of Victorian legislation (the *Associations Incorporation Reform Act 2012* (Vic) (**AIR Act**)), which is not challenged in this proceeding.[5]

9.2 *Secondly*, to similar effect, the plaintiffs describe an effect of Pt 5.3B to be the "acqui[sition of] the group's remaining property other than on just terms" (PS [92]). Part 5.3B does not provide for any such action. The plaintiffs' complaint appears to stem from provisions of the AIR Act which deal with the distribution of assets upon the winding up of an incorporated association and the vesting of assets upon cancellation of such an association. Those actions — which remain at most a potentiality in respect of the first plaintiff — are many steps removed from the scheme established by Pt 5.3B of the Code, and (again) are not in issue in this proceeding.

---

4 Being the *Criminal Code (Prohibited Hate Group—White Australia) Regulations 2026* (Cth) (**Regulations**).

5 See s 135 of the AIR Act. For completeness, the *Associations Incorporation Reform Amendment Bill 2026* (Vic) was introduced into the Victorian Parliament on 11 August 2026. If passed, the Act would give to the Registrar additional powers in respect of incorporated associations that have been specified as a "prohibited hate group".

10. None of the matters noted above detract from the fact that, once an organisation has been specified as a prohibited hate group, it must practically cease operations. However, they point to the need for precision when seeking to answer the referred questions, which relate solely to the Commonwealth's power to enact Pt 5.3B of the Code (PS [20]; SCB 175 [230]).

(b) Question 2: Part 5.3B is not invalid by reason of the implied freedom of political communication

11. As noted above, the plaintiffs' implied freedom challenge is confined to the validity of Pt 5.3B of the Code; the plaintiffs do not seek to challenge the Regulations (SCB 175 [230]). In those circumstances, as explained in DS [31]-[33], it would be open to the Court to dispose of the plaintiffs' implied freedom challenge on the basis that Pt 5.3B is capable of having at least *some* valid operation insofar as it would authorise the making of a regulation in respect of organisations which have no discernible interest in engaging in political communication.[6] In any event, the power to specify an organisation, even one which *does* have such an interest, is "susceptible of exercise in accordance with the constitutional restriction upon legislative power" and, accordingly, the power "is effective in [its] terms. No question arises of severance or reading down the legislation."[7] There being no administrative law challenge to the validity of the regulations specifying the first plaintiff, Question 2 must be answered "No". The submissions that follow address the implied freedom analysis at the level of the statute, on the assumption that Pt 5.3B has operative effect.

Burden

12. The first step in the implied freedom analysis is to ask whether a law, in its "legal operation or practical effect", imposes an "effective burden" on the implied freedom.[8] A law will impose an effective burden if its effect "is to prohibit, or put some limitation on, the making or the content of political communications".[9]

---

6 See *Palmer v Western Australia* (2021) 272 CLR 505 at [65]-[68] (Kiefel CJ and Keane J), [122]-[123] (Gageler J), [201]-[202] (Gordon J), [219]-[220] (Edelman J).

7 *Wotton v Queensland* (2012) 246 CLR 1 at [23] (French CJ, Gummow, Hayne, Crennan and Bell JJ).

8 See, eg, *Farmer* (2025) 99 ALJR 1408 at [39]-[40], [42] (Gageler CJ, Gordon and Beech-Jones JJ), [136] (Steward J).

9 See *Ravbar v Commonwealth* (2025) 99 ALJR 1000 at [32] (Gageler CJ) and the cases referred to therein.

13. Although the nature and extent of the burden is "not relevant to the threshold question as to whether justification is required,"[10] those matters "assume some importance when considering what has to be justified and the questions to be addressed in that process".[11] That is so because where a law imposes an effective burden on the implied freedom, "the supervisory role of the courts is engaged to consider the justification for that restriction" (see also DS [29]).[12]

14. Identification of the nature and extent of the burden thus "'serves to focus and to calibrate the inquiry' as to whether the impugned law is reasonably appropriate and adapted to serve a legitimate end".[13] A burden that is "direct" (in the sense that political communication is the criterion on which the law operates) and "substantial" (as to the amount of political communication restricted) will be more difficult to justify than a burden that is incidental and slight.[14]

15. The relevant question is whether the law imposes an effective burden on the implied freedom "generally",[15] by reference to the "law's effect on political communication *as a whole*" (see also DS [29]).[16] As such, the circumstances of the parties to any individual case can only be relevant insofar as they are capable of providing a singular illustration of the practical operation of the law.[17]

[10] *LibertyWorks v Commonwealth* (2021) 274 CLR 1 at [63] (Kiefel CJ, Keane and Gleeson JJ). See also *Unions NSW v New South Wales* (2013) 252 CLR 530 (***Unions No 1***) at [40] (French CJ, Hayne, Crennan, Kiefel and Bell JJ); *Brown v Tasmania* (2017) 261 CLR 328 at [127] (Kiefel CJ, Bell and Keane JJ).

[11] *LibertyWorks* (2021) 274 CLR 1 at [63] (Kiefel CJ, Keane and Gleeson JJ); see also at [94] (Gageler J), [136] (Gordon J). See also *Brown* (2017) 261 CLR 328 at [118], [128] (Kiefel CJ, Bell and Keane JJ), [164]-[165], [200]-[201] (Gageler J), [291] (Nettle J), [411] (Gordon J), [478] (Edelman J); *Farm Transparency International Ltd v New South Wales* (2022) 277 CLR 537 at [36] (Kiefel CJ and Keane J).

[12] *McCloy v New South Wales* (2015) 257 CLR 178 at [127] (Gageler J).

[13] *Hopper v Victoria* (2026) 100 ALJR 582 at [28] (Gageler CJ, Gordon, Jagot and Beech-Jones JJ), citing *Farm Transparency* (2022) 277 CLR 537 at [156] (Gordon J), in turn quoting *Tajjour v New South Wales* (2014) 254 CLR 508 at [147] (Gageler J).

[14] As to the relevance of these indicia, see, eg, *Farmer* (2025) 99 ALJR 1408 at [57] (Gageler CJ, Gordon and Beech-Jones JJ). See more generally *Hogan v Hinch* (2011) 243 CLR 506 at [95] (Gummow, Hayne, Heydon, Crennan, Kiefel and Bell JJ); *Brown* (2017) 261 CLR 328 at [199] (Gageler J), [291] (Nettle J); *Clubb v Edwards* (2019) 267 CLR 171 at [102], [127] (Kiefel CJ, Bell and Keane JJ), [174], [183] (Gageler J), [372] (Gordon J).

[15] See, eg, *Unions No 1* (2013) 252 CLR 530 at [35] (French CJ, Hayne, Crennan, Kiefel and Bell JJ); *Brown* (2017) 261 CLR 328 at [90] (Kiefel CJ, Bell and Keane JJ); *LibertyWorks* (2021) 274 CLR 1 at [77] (Kiefel CJ, Keane and Gleeson JJ), [135] (Gordon J); *Farm Transparency* (2022) 277 CLR 537 at [27] (Kiefel CJ and Keane J), [154] (Gordon J).

[16] *Comcare v Banerji* (2019) 267 CLR 373 at [20] (Kiefel CJ, Bell, Keane and Nettle JJ) (emphasis in original). See also *Farmer* (2025) 99 ALJR 1408 at [45] (Gageler CJ, Gordon and Beech-Jones JJ).

[17] *Brown* (2017) 261 CLR 328 at [90] (Kiefel CJ, Bell and Keane JJ).

16. **The appropriate characterisation of burden**. In some operations, Pt 5.3B authorises the making of a regulation the effect of which will be to impose an effective burden on political communication, either because it will deprive the prohibited hate group *itself* of the ability to engage in political communication and/or because it will deprive the group's members of their ability to associate for the purposes of, or to engage in, political communication in that capacity (DS [36], see also SCB 59-60 [28]). But for the reasons that follow, in addition to those identified in DS [34]-[39], the incremental burden imposed by Pt 5.3B upon the making of a prohibited hate group regulation should be characterised as incidental and slight.

17. **The burden is incidental**. One of the plaintiffs' central contentions is that the burden imposed by Pt 5.3B is "direct because the law operates upon political associations engaged in political advocacy" (PS [63]). That contention should be rejected in light of the criteria for the exercise of the power to make regulations specifying a "prohibited hate group" (see paragraphs 19-20 below; see also DS [34]). Recourse to the first plaintiff's own circumstances does not demonstrate that the law has that operation *generally*, both because the first plaintiff's circumstances are but one illustration of the law's effect on political communication (see paragraph 15 above) and because the material before the Court indicates that the motivations of members of the first plaintiff for seeking its registration as a political party were to "gain[ ] protection from being convicted" of criminal offences, including those coming within the definition of "hate crime" in s 114A.3 of the Code (SCB 554, see also at 85 [49] and [51], 86 [53], 534, and see DS [4], [9]-[11]). In any event, in circumstances where the purpose of Pt 5.3B is "not to deny or restrict political communication",[18] the burden cannot be characterised as "direct". Rather, "[a]ny effect on political communication is the indirect consequence" or incident of the operation of Pt 5.3B in conjunction with a prohibited hate group regulation for the legitimate purpose discussed below.[19]

18. **The burden is slight**. Two matters additional to those discussed in detail in the defendants' submissions indicate that the burden imposed on political communication is slight.

[18] *Farmer* (2025) 99 ALJR 1408 at [248], see also at [246] (Jagot J); see also *Hogan* (2011) 243 CLR 506 at [95] (Gummow, Hayne, Heydon, Crennan, Kiefel and Bell JJ).

[19] *Farmer* (2025) 99 ALJR 1408 at [57] (Gageler CJ, Gordon and Beech-Jones JJ), see also at [248] (Jagot J).

19. The **first** is that, having regard to the criteria set out in Pt 5.3B, the circumstances in which the power to make a prohibited hate group regulation could be exercised are narrowly circumscribed. As explained in DS [7] and [56], before the Governor-General may make a prohibited hate group regulation, the AFP Minister, after receiving the advice of the Director-General of Security (s 114A.5(2)), must be "satisfied on reasonable grounds" of the two matters in s 114A.4(1) of the Code: *first*, that the organisation "has engaged in, prepared or planned to engage in, or assisted the engagement in, conduct constituting a hate crime", or has advocated engaging in such conduct (subject to certain exceptions) (s 114A.4(1)(a)(i)-(ii)); and *secondly*, that "specifying the organisation as a prohibited hate group is reasonably necessary to protect the Australian community or part of the Australian community against harm of any one or more of the kinds referred to in s 114A.1(1)(a)" (s 114A.4(b)).

20. The term "hate crime" is defined with precision in s 114A.3. Subsections (1) and (2) bring within that definition conduct that would constitute specific Commonwealth, State and Territory offences relating to hate crimes and the public incitement of racial hatred and, in respect of sub-s (2), would cause a reasonable person who is targeted (whether themselves or as a member of a targeted group) to be intimidated, to fear harassment or violence, or to fear for their safety.[20] By sub-s (5), the definition also encompasses conduct, or the threat thereof, that would involve an identified form of serious harm (sub-pars (a)(i)-(v)) and was motivated by the victim's "race or national or ethnic origin" (sub-pars (b)(i)-(ii)). As is apparent from the types of harm specified in sub-par (5)(a), and confirmed by the note following the subsection, sub-s (5) is "directed at serious conduct or the threat of serious conduct of a criminal nature" (see also DS [8]). The definition of "hate crime" therefore encompasses certain categories of criminal conduct of a serious, insidious and inherently harmful kind.

21. Taken together, the matters referred to above (and in DS [28] and [56]) demonstrate the high thresholds that must be met before the Governor-General may make a prohibited hate group regulation. The effect of those thresholds is that a regulation could only ever be made, and thus the offence provisions in Div 114B of Pt 5.3B operate, in very limited circumstances. That matter is directly relevant to the extent of the burden, assessed by

[20] See also s 114A.3(4) of the Code, providing that, if a defence applies in relation to the relevant conduct, "that conduct is not conduct that would constitute an offence".

reference to the "law's effect on political communication *as a whole*" (see paragraph 15 above).[21]

22. The **second** reason relates to the nature of the "political communication" which might be burdened by Pt 5.3B upon the making of a regulation. As explained above, the Governor-General may only make a prohibited hate group regulation where the AFP Minister is satisfied on reasonable grounds that the relevant organisation "has engaged in, prepared or planned to engage in, or assisted the engagement in, conduct constituting a hate crime", or has advocated engaging in such conduct (s 114A.4(1)(a)(i)-(ii)). To the extent that the specification of a prohibited hate group would thereafter prohibit the group and its members from engaging in communication of the same kind — that is, communication that would meet the definition of "hate crime" — then Pt 5.3B would impose no effective burden at all. That is so because "the implied freedom of political communication cannot be burdened if a law prohibits an action of political communication that the person is not independently free to do" (see also DS [30], [35]-[36]).[22] As recently explained by Edelman J, "[t]he concern is with political communication that people are free to express"; "the implied freedom of political communication cannot … create freedoms where none exist".[23]

23. To the extent that specification of a prohibited hate group could thereafter prevent (by means of the offence provisions in Div 114B) the group and its members from engaging in political communication which is not independently unlawful, the burden imposed by Pt 5.3B should nevertheless be characterised as slight. Drawing inferences about an organisation's likely future conduct from the nature of its past conduct (see, in relation to the first plaintiff, DS [5] and SCB 82-95 [39]-[68]), and applying its "knowledge of the society of which it is a part",[24] the Court may readily find that the preponderance of communication likely to be burdened would be at the margins of what is protected by the implied freedom. Simply put, it would be communication which is unlikely to be facultative of the exercise by the people of "a free and informed choice as electors"

---

21 *Banerji* (2019) 267 CLR 373 at [20] (Kiefel CJ, Bell, Keane and Nettle JJ) (emphasis in original). See also *Farmer* (2025) 99 ALJR 1408 at [45] (Gageler CJ, Gordon and Beech-Jones JJ).

22 *Farmer* (2025) 99 ALJR 1408 at [94], see also [68], [73], [78]-[80], [91], [102] (Edelman J), [131], [135], [143] (Steward J). See more generally *Brown* (2017) 261 CLR 328 at [109] (Kiefel CJ, Bell and Keane JJ), [304], [310] (Gordon J) and *Farm Transparency* (2022) 277 CLR 537 at [158] (Gordon J), [242], [244], [255] (Edelman J).

23 *Farmer* (2025) 99 ALJR 1408 at [102] and [91] respectively (Edelman J).

24 *Vanderstock v Victoria* (2023) 279 CLR 333 at [153] (Kiefel CJ, Gageler and Gleeson JJ), quoting *Maloney v The Queen* (2013) 252 CLR 168 at [351] (Gageler J).

within our constitutionally prescribed system of representative and responsible government.[25] For example, a prohibition on the ability of the group and its members to engage in expressions of overt discrimination or harassment or exhortations of violence (see, eg, DS [26], [54]), even if not independently unlawful, could hardly be said to create any meaningful "legal or practical impediment to receipt by electors of information capable of bearing on the making of an informed electoral choice".[26]

24. Taken together, the above matters indicate that when regard is had to the types of communications in which prohibited hate groups could be expected to engage, the burden imposed by Pt 5.3B is no greater than slight.

25. That is especially so in light of the **third** consideration, being that the Part leaves unaffected the capacity of individual members of a prohibited hate group to communicate on their own behalf or on behalf of other, non-specified, organisations (DS [36]). The fact that ample alternative channels for communication are available to members of a prohibited hate group also confines the nature and extent of the burden (see DS [30], [36]).[27]

Legitimate purpose

26. The second step in the implied freedom analysis is to identify the purpose of the law, and to ask whether that purpose is constitutionally "legitimate".

27. The "purpose" of a law exists "at a higher level of generality than the meaning of its words".[28] It is appropriately described as that which "the law is designed to achieve in fact, which is akin to what mischief the law is designed to address".[29] A law's purpose is to be discerned through ordinary processes of statutory construction, having regard to the text and context (understood widely) of the impugned provisions.[30] In the context

---

25 *Lange v Australian Broadcasting Corporation* (1997) 189 CLR 520 at 560 (the Court).

26 *Ruddick v The Commonwealth* (2022) 275 CLR 333 at [28] (Gageler J), referring to *Lange* (1997) 189 CLR 520 at 560 (the Court). As an example of such speech, see, eg, SCB 534.

27 See generally *Farmer* (2025) 99 ALJR 1408 at [251]-[252] (Jagot J); *LibertyWorks* (2021) 274 CLR 1 at [74] (Kiefel CJ, Keane and Gleeson JJ); *McCloy* (2015) 257 CLR 178 at [93] (French CJ, Kiefel, Bell and Keane JJ).

28 *Unions NSW v New South Wales* (2019) 264 CLR 595 (***Unions No 2***) at [171] (Edelman J). See also *Brown* (2017) 261 CLR 328 at [208] (Gageler J).

29 See *Farmer* (2025) 99 ALJR 1408 at [54] (Gageler CJ, Gordon and Beech-Jones JJ). See also *Ravbar* (2025) 99 ALJR 1000 at [41]-[45] (Gageler CJ), [117]-[120] (Gordon J), [172]-[174] (Edelman J), [370] (Jagot J), [459] (Beech-Jones J) and *Brown* (2017) 261 CLR 328 at [101] (Kiefel CJ, Bell and Keane JJ), [208] (Gageler J), [321] (Gordon J).

30 *Unions No 1* (2013) 252 CLR 530 at [50] (French CJ, Hayne, Crennan, Kiefel and Bell JJ); *Brown* (2017) 261 CLR 328 at [96] (Kiefel CJ, Bell and Keane JJ), [208] (Gageler J), [321] (Gordon J); *Ruddick* (2022) 275 CLR 333 at [133] (Gordon, Edelman and Gleeson JJ).

of the implied freedom, a purpose will be "legitimate" if it is "compatible with the system of representative government provided for by the *Constitution*, which is to say that the purpose does not impede the functioning of that system and all that it entails" (DS [40]).[31]

28. For the reasons explained in DS [41]-[44], the purpose of Pt 5.3 is most appropriately described as being to protect the Australian community from organisations that engage in conduct that seriously harms the community, and poses a threat to the security of the Commonwealth and the system of representative democracy. Such a purpose is undoubtedly legitimate.

29. In addition to the matters identified in DS [47]-[50], this Court's decision in *Farmer* points to the legitimacy of the Commonwealth's articulated purpose. In *Farmer*, the Court considered the purpose of s 501(6)(d)(iv) of the *Migration Act 1958* (Cth), one of the limbs of the so-called "character test" upon which the Minister may refuse or cancel a visa. The Court found that the purpose of that provision was "to protect the Australian community", or a segment of it, from the "risk that a person who is not part of that community would stir up or encourage dissension or strife on political matters, of a kind or to a degree that is harmful to that community or segment."[32] The Court made clear that, as a matter of construction of the relevant provision, harmful dissension or strife was not limited to physical violence, but extended to "the intimidation, vilification or victimisation of, or disruption within or to, a segment of the Australian community".[33] On its proper construction, the provision did not, however, extend to the situation in which only "the feelings or sensitivities of the Australian community or a segment of the community would be hurt or adversely affected".[34] Construed in that way, those members of the Court who found that s 501(6)(d)(iv) burdened the implied freedom held that the purpose of the provision was legitimate.[35]

---

31 *McCloy* (2015) 257 CLR 178 at [31], see also at [2] (French CJ, Kiefel, Bell and Keane JJ). See also *Brown* (2017) 261 CLR 328 at [104] (Kiefel CJ, Bell and Keane JJ) and *Farmer* (2025) 99 ALJR 1408 at [53] (Gageler CJ, Gordon and Beech-Jones JJ).

32 *Farmer* (2025) 99 ALJR 1408 at [54], see also at [26], [30] (Gageler CJ, Gordon and Beech-Jones JJ), [106] (Edelman J), [120] (Steward J), [165], [168] (Gleeson J generally agreeing), [245] (Jagot J).

33 *Farmer* (2025) 99 ALJR 1408 at [30], and more generally at [27]-[35] (Gageler CJ, Gordon and Beech-Jones JJ), [106] (Edelman J), see also at [168] (Gleeson J).

34 *Farmer* (2025) 99 ALJR 1408 at [30] (Gageler CJ, Gordon and Beech-Jones JJ), see also [169] (Gleeson J), [218]-[219], [221] (Jagot J).

35 *Farmer* (2025) 99 ALJR 1408 at [55] (Gageler CJ, Gordon and Beech-Jones JJ), [246] (Jagot J).

30. To the extent that the purpose of Pt 5.3B encompasses the protection of the Australian community from serious psychological or physical harm, that is squarely within the four corners of what the Court considered to be legitimate in *Farmer*. The same position obtains in respect of protection from serious social and economic harm,[36] which is apt to include "intimidation, vilification or victimisation of, or disruption within or to, a segment of the Australian community".[37] Conduct of that kind, or the consequences of such conduct, seriously harms our society in both intrinsic and instrumental (or causal) ways.

31. It is intrinsically harmful because, amongst other things, conduct of that kind is an affront to human dignity, the protection of which is "readily seen" to be a legitimate purpose for a law which burdens the implied freedom.[38] It is instrumentally (or causally) harmful because the spread of extremist and totalitarian political views and the increased commission of hate crimes not only fosters physical violence (see DS [42]-[43], [47]-[49]), it results in the intimidation and silencing of minority groups and is therefore harmful to their "[e]quality of opportunity to participate in the exercise of political sovereignty"[39] (see DS [42], [50]). The realisation of such harms would therefore be "potentially incompatible with the continuation of Australia's form of constitutionally protected representative and responsible government" (see also DS [26], [54]).[40]

32. When regard is had to the confined practical operation of Pt 5.3B and the extrinsic materials accompanying the passage of the Act which introduced the Part (DS [41]-[44], see also paragraphs 7 and 19-21 above), there is no reason to identify the purpose

---

36 See s 114A.1(1)(a) of the Code.

37 *Farmer* (2025) 99 ALJR 1408 at [30] (Gageler CJ, Gordon and Beech-Jones JJ).

38 See *Clubb* (2019) 276 CLR 171 at [51], see also at [50], [98]-[99] (Kiefel CJ, Bell and Keane JJ). Gageler and Nettle JJ made similar observations in separate judgments: see at [196] (Gageler J), [259] (Nettle J).

39 *McCloy* (2015) 257 CLR 178 at [45] (French CJ, Kiefel, Bell and Keane JJ); see also at [27]; *Unions No 1* (2013) 252 CLR 530 at [135]-[136] (Keane J); *Tajjour v New South Wales* (2014) 254 CLR 508 at [197] (Keane J). See generally, as to the harms of hate speech: Alexander Tsesis, *Destructive Messages: How Hate Speech Paves the Way for Harmful Social Movements* (New York University Press, 2002) at 1-3; Katharine Gelber & Luke McNamara, "Evidencing the Harms of Hate Speech" (2016) 22(3) *Social Identities* 324 at 324-341; Katharine Gelber, "Hate Speech — Definitions and Empirical Evidence" (2017) 32(3) *Constitutional Commentary* 619 at 624-626; Mary Kate McGowan, *Just Words: On Hidden Speech and Harm* (Oxford University Press, 2019); Alexander Brown & Adriana Sinclair, *The Politics of Hate Speech Laws* (Routledge, 2020) at 18-19; Katharine Gelber, "Speaking Back" in Adrienne Stone and Frederick Schauer, *The Oxford Handbook of Freedom of Speech* (Oxford University Press, 2021) at 254-258; Katharine Gelber and Molly Murphy, "The Harms of Hate Speech" in Eric Heinze et al, *The Oxford Handbook of Hate Speech* (Oxford University Press, 2026).

40 *Farmer* (2025) 99 ALJR 1408 at [246] (Jagot J). See also, more generally, *McCloy* (2015) 257 CLR 178 at [84]-[86] (French CJ, Kiefel, Bell and Keane JJ).

of the Part as going beyond the prevention of the harms identified above. Having identified that harms of that nature may eventuate if it did not legislate, Parliament was entitled to act — both in response to events that had already occurred and "prophylactically" — to address the risk of repeated occurrence of such harms in the future.[41]

33. If the above account of the purpose of Pt 5.3B and the legitimacy of that purpose are accepted, it follows that the plaintiffs' contentions can be put to one side. In particular, the plaintiffs' claim that the purpose of the law is to preserve social cohesion, in the sense found to be illegitimate in *Jarrett*, must be rejected (cf PS [71]).[42] Nor can it be said that the purpose of Pt 5.3B is to "remove political actors because their views are offensive, distressing [or] divisive" (cf PS [68], [70]).

34. As to the plaintiffs' latter point, while it may be accepted that political communication can "involve[ ] offence, insult, controversy and agitation" (PS [72]), it does not follow that the implied freedom precludes the prohibition of unsolicited, unwelcome and offensive political communication in any context.[43] As Gageler J explained in *Clubb*, in reasoning consistent with that of several other justices:[44]

> *Coleman* and *Monis* should not be understood as authority for the proposition that a purpose of curtailing unsolicited, unwelcome, uncivil or offensive speech is incompatible with the constitutionally prescribed system of representative and responsible government. Consistently with how the Supreme Court of the United States has treated the interest of an unwilling listener in avoiding unwanted communication, the better explanation of those decisions is that protecting against unwanted or offensive communication is a permissible purpose the capacity of which to justify a burden on freedom of political communication can vary in different contexts.

35. Gageler J went on to explain that the importance of that permissible purpose will vary depending on context. In some contexts, "the purpose of protecting against unwanted or offensive communication can be insignificant"; in others, as in *Clubb*, it will be

---

41 See, eg, *McCloy* (2015) 257 CLR 178 at [233] (Nettle J), endorsed in *Spence v Queensland* (2019) 268 CLR 355 at [96] (Kiefel CJ, Bell, Gageler and Keane JJ), see also [323] (Edelman J); *Clubb* (2019) 267 CLR 171 at [78]-[79] (Kiefel CJ, Bell and Keane JJ). See also *McCloy* (2015) 257 CLR 178 at [197] (Gageler J), endorsed in *Brown* (2017) 261 CLR 28 at [276] (Nettle J), [422] (Gordon J). See also *Ravbar* (2025) 99 ALJR 1000 at [398] (Jagot J), and more generally *Farmer* (2025) 99 ALJR 1408 at [54] (Gageler CJ, Gordon and Beech-Jones JJ).

42 See *Jarrett v New South Wales* [2026] NSWCA 62, especially at [131], [143], [170] (the Court).

43 See *Clubb* (2019) 276 CLR 171 at [98]-[99] (Kiefel CJ, Bell and Keane JJ), [196] (Gageler J), [259] (Nettle J), see more generally at [345] (Gordon J). See also, to similar effect, *Brown* (2017) 261 CLR 328 at [275] (Nettle J), describing the implied freedom as "a freedom to communicate ideas to those who are willing to listen", rather than "a right to force an unwanted message on those who do not wish to hear it".

44 *Clubb* (2019) 276 CLR 171 at [196] and the references in footnote 43 above.

"compelling".[45] In those circumstances, even if the purpose of Pt 5.3B were appropriately characterised as the protection of targeted individuals and groups from "offensive" communications, that is a purpose that could legitimately be pursued.[46]

Justification

36. The third step in the implied freedom analysis is to ask whether Pt 5.3B is "reasonably appropriate and adapted" to achieving the legitimate purpose identified above "in a manner that is compatible with the maintenance of the constitutionally prescribed system of government which the freedom exists to protect".[47] Regardless of whether a structured proportionality or a calibrated scrutiny approach is applied to answer that inquiry, Pt 5.3B should be found to be justified, for the reasons given in DS [51]-[57].[48]

37. In addition, the second of the two criteria of which the AFP Minister must be satisfied before a prohibited hate group regulation may be made is that specifying the organisation is "reasonably necessary" to protect the Australian community against harm of the kind discussed above. The words "reasonably necessary" are "akin to the phrase 'reasonably appropriate and adapted'"[49] and "effectively incorporate[ ] the requirement for constitutional justification".[50] And the AFP Minister's satisfaction that specification of the organisation is "reasonably necessary" is a jurisdictional fact that is judicially reviewable (see DS [56]). In those circumstances, the terms in which the power to specify an organisation is cast ensure that the exercise of the power complies with the constitutional limitation.[51] No further constitutional question arises.

45 *Clubb* (2019) 276 CLR 171 at [196].

46 See, by analogy, *Clubb* (2019) 276 CLR 171 at [51], see also [50], [98]-[99] (Kiefel CJ, Bell and Keane JJ), [259] (Nettle J). See also the decisions of intermediate courts of appeal which have consistently held that anti-vilification provisions serve a legitimate end and are compatible with the implied freedom: see especially *Owen v Menzies* [2013] 2 Qd R 327 at [77] (Margaret McMurdo P), and see [4] (De Jersey CJ agreeing), [157] (Muir JA agreeing). See also *Catch the Fire Ministries Inc v Islamic Council of Victoria Inc* (2006) 15 VR 207 at [113] (Nettle JA), [119] (Ashley JA agreeing), [210] (Neave JA) and *Sunol v Collier* (2012) 289 ALR 128 at [52] (Bathurst CJ), [70], [73]-[74] (Allsop P) and especially [94] (Basten JA).

47 See, eg, *Farmer* (2025) 99 ALJR 1408 at [56] (Gageler CJ, Gordon and Beech-Jones JJ).

48 As to the operation of the two approaches, see, eg, *Babet v Commonwealth* (2025) 99 ALJR 883 at [49] (Gageler CJ and Jagot J), [72] (Gordon J agreeing), [242] (Beech-Jones J agreeing); *Ravbar* (2025) 99 ALJR 1000 at [27]-[29] (Gageler CJ), [343]-[345] (Jagot J), [427] (Beech-Jones J).

49 *Wotton* (2012) 246 CLR 1 at [32] (French CJ, Gummow, Hayne, Crennan and Bell JJ).

50 *Palmer* (2021) 272 CLR 505 at [226] (Edelman J). See also *Banerji* (2019) 267 CLR 373 at [43]-[44] (Kiefel CJ, Bell, Keane and Nettle JJ).

51 *Wotton* (2012) 246 CLR 1 at [33] (French CJ, Gummow, Hayne, Crennan and Bell JJ).

38. Overall, by way of summary, the burden imposed by Pt 5.3B on political communication is both indirect and slight.[52] The purpose of the Part is not only legitimate, but one of great importance, which preserves and enhances the system of representative government that the implied freedom exists to protect. And the substantive criteria and procedural safeguards which condition the making of a prohibited hate group regulation ensure that Pt 5.3B is reasonably appropriate and adapted to the achievement of that purpose. To the extent that it is relevant to consider the plaintiffs' purported identification of "substantially less restrictive alternatives" (PS [74]), it is far from clear that any of those alternatives "achieve the same legislative purpose to the same degree"[53] (that is, that they are equally effective, "quantitatively, qualitatively, and probability-wise").[54] In those circumstances, there should be no doubt that Pt 5.3B is justified in the relevant sense.

(c) Question 3: Part 5.3B is not invalid for contravening Ch III of the Constitution

39. Like their implied freedom challenge, the plaintiffs' Ch III challenge is confined to the validity of Pt 5.3B of the Code (see paragraphs 8 and 11 above). As previously explained, Pt 5.3B on its own has no effect on rights, duties or liabilities; it is only once the Governor-General makes a regulation under s 5(1) of the Act that the Part can have any such effect. Assuming that the Court proceeds to analyse Pt 5.3B insofar as it operates in conjunction with a prohibited hate group regulation, Victoria endorses the Commonwealth's submissions as to the analytical framework under which the plaintiffs' Ch III challenge falls to be decided and the reasons for which that challenge must fail (DS [58]-[61]). One aspect of the analysis merits further consideration.

40. **The *YBFZ* framework may apply differently to bodies corporate**.[55] Although not addressed precisely in these terms, the plaintiffs' submissions proceed on the basis that the *Lim* principle,[56] as developed and extended in more recent cases such as *YBFZ*,[57] provides the framework by which to assess the constitutionality of powers to impose detriments on bodies corporate. In light of the language used in *Lim* and the nature of

---

52. Compare *Farmer* (2025) 99 ALJR 1408 at [57] (Gageler CJ, Gordon and Beech-Jones JJ).
53. *Farm Transparency* (2022) 277 CLR 537 at [46] (Kiefel CJ and Keane J). See also *Unions No 2* (2019) 264 CLR 595 at [41] (Kiefel CJ, Bell and Keane JJ); *Clubb* (2019) 267 CLR 171 at [477] (Edelman J).
54. *Tajjour v New South Wales* (2014) 254 CLR 508 at [114] (Crennan, Kiefel and Bell JJ).
55. These submissions refer to "bodies corporate" throughout, but the analysis would equally apply to unincorporated bodies.
56. See *Chu Kheng Lim v Minister for Immigration, Local Government and Ethnic Affairs* (1992) 176 CLR 1 at 27.
57. *YBFZ v Minister for Immigration, Citizenship and Multicultural Affairs* (2024) 99 ALJR 1.

the common law values which underpin the principle, recently articulated as "life, bodily integrity, and liberty", that approach is not inevitable.[58] It may be accepted that a body corporate can be punished, but, as evocatively expressed by Lord Denning MR, following Lord Thurlow,[59] Blackstone[60] and Sir Edward Coke,[61] it has "no body to be kicked or soul to be damned".[62] The law, including insofar as is relevant to the imposition of criminal punishment, does not necessarily apply to bodies corporate in precisely the same way as it applies to individuals.[63]

41. Nevertheless, the position taken in the plaintiffs' submissions is broadly consistent with the analytical approach adopted in *Ravbar*, where the parties and the Court proceeded on the basis that the powers to impose detriments on the CFMEU, a registered organisation, and on former officers thereof, were capable of being analysed under the *YBFZ* framework.[64] As such, the applicability of the *YBFZ* framework may, at least for present purposes, be assumed.

42. If the *YBFZ* framework is to be applied to analyse the constitutionality of a power to impose a detriment solely or principally on a body corporate, application of that framework may involve a number of differences to its application to natural persons.[65]

---

58 See, eg, *YBFZ* (2024) 99 ALJR 1 at [9], see also [12], [14]-[15], [18] (Gageler CJ, Gordon, Gleeson and Jagot JJ).

59 See John Poynder, *Literary Extracts from English and Other Works* (1844) vol 1 at 268.

60 See William Blackstone, *Commentaries on the Laws of England* (Broom and Hadley eds, 1869) Vol 1, Ch 1 at 147, 167 and Vol 1, Ch 17 at 577-8.

61 See *The Case of Sutton's Hospital* (1612) 10 Co Rep 23a at 32b.

62 See *British Steel Corporation v Granada Television Ltd* [1981] AC 1096 at 1127.

63 See, eg, *Environment Protection Authority v Caltex Refining Co Pty Ltd* (1993) 178 CLR 477 at 494 (Mason CJ and Toohey J), 512 (Brennan J), 540 (McHugh J), all quoting Lord Denning in *Granada Television Ltd* [1981] AC 1096 at 1127; but cf at 532 (Deane, Dawson and Gaudron JJ, dissenting).

64 *Ravbar* (2025) 99 ALJR 1000 at [15] (Gageler CJ relevantly agreeing with Jagot J), [153] (Gordon J), [251]-[259] (Edelman J), [297] (Steward J), [305] (Gleeson J relevantly agreeing with Gordon J), [407]-[408] (Jagot J), [423] (Beech-Jones J relevantly agreeing with Gordon J). See also, more generally, *Duncan v New South Wales* (2015) 255 CLR 388, in which it appears to have been assumed that bodies corporate may be susceptible to punishment (see especially at [2]-[4], [46], [51]).

65 An analogy may be drawn to the differential treatment of bodies corporate in the jurisprudence relating to the Fourteenth Amendment to the United States Constitution. While the Supreme Court of the United States has recognised that bodies corporate are "persons" within the meaning of the Fourteenth Amendment (*Santa Clara County v Southern Pacific Railroad Co*, 118 US 394 (1886)), the Court has held that the protections of the Fourteenth Amendment apply differentially (and more narrowly) to corporations: see, eg, *Northwestern Life Insurance Company v Riggs*, 203 US 243 at 245 (1906), *Western Turf Association v Greenberg*, 204 US 359 at 363-4 (1907), *Pierce v Society of Sisters*, 268 US 510 at 535 (1925). In the terms used by Justice Brewer in *Northern Securities Co v United States*, 193 US 197 at 362 (1904), "[a] corporation, while by fiction of law recognized for some purposes as a person and for purposes of jurisdiction as a citizen, is not endowed with the inalienable rights of a natural person. It is an artificial person, created and existing only for the convenient transaction of business".

43. *First*, the range of powers that may be characterised as prima facie punitive, either by default or by a process of characterisation,[66] will likely be more limited. As to the former, the categories of powers which have been held to attract default characterisation are powers that impose detriments of substantial severity,[67] of a kind historically imposed as punishment.[68] Applying those criteria, only two powers have to date been held to be prima facie punitive: the power to detain a person in custody[69] and the power to strip a person of citizenship.[70] Neither power could have any application to a body corporate, and it is difficult to conceive of cognate powers which could have such application. As to the latter, in order to attract the designation of prima facie punitive by a process of characterisation, one matter of significance, in addition to the severity of the detriment, is "the importance of the 'constitutional value … at stake'".[71] To the extent that any constitutional values could be said to be implicated in the imposition of detriments on bodies corporate, they must, for the reasons explained in paragraph 40 above, be values of considerably lesser constitutional significance than those previously held to ground the characterisation of a power as prima facie punitive (liberty and bodily integrity).[72]

44. *Secondly*, both limbs of the justification enquiry (that is, that the power is "reasonably capable of being seen as necessary" for a "legitimate and non-punitive purpose")[73] may

66 As to the enquiry, see *YBFZ* (2024) 99 ALJR 1 at [16] (Gageler CJ, Gordon, Gleeson and Jagot JJ).

67 See, eg, *Alexander v Minister for Home Affairs* (2022) 276 CLR 336 at [73]-[74], [77], [95] (Kiefel CJ, Keane and Gleeson JJ), [159], [166], [172] (Gordon J), [238], [244], [248] (Edelman J); *Benbrika v Minister for Home Affairs* (2023) 280 CLR 1 (***Benbrika [No 2]***) at [21]-[22] (Kiefel CJ, Gageler, Gleeson and Jagot JJ), [63] (Gordon J), [101], [109]-[110] (Edelman J); *Jones v Commonwealth* (2023) 280 CLR 62 at [76] (Gordon J), [155] (Edelman J). See also *North Australian Aboriginal Justice Agency Ltd v Northern Territory* (2015) 256 CLR 569 at [95] (Gageler J).

68 See, eg, *Alexander* (2022) 276 CLR 336 at [72], [75] (Kiefel CJ, Keane and Gleeson JJ), [159] (Gordon J), [250] (Edelman J). The close historical association between detention in custody and the adjudgment and punishment of criminal guilt was a large part of the foundation for the reasoning in *Lim*: see (1992) 176 CLR 1 at 27-28 (Brennan, Deane and Dawson JJ).

69 See *Falzon v Minister for Immigration and Border Protection* (2018) 262 CLR 333 at [24] (Kiefel CJ, Bell, Keane and Edelman JJ); *Minister for Home Affairs v Benbrika* (2021) 272 CLR 68 at [40] (Kiefel CJ, Bell, Keane and Steward JJ), [73] (Gageler J); *Jones* (2023) 280 CLR 62 at [39] (Kiefel CJ, Gageler, Gleeson and Jagot JJ).

70 *Benbrika [No 2]* (2023) 290 CLR 1 at [73] (Gordon J); *Jones* (2023) 280 CLR 62 at [39] (Kiefel CJ, Gageler, Gleeson and Jagot JJ), [63], [76]-[77] (Gordon J).

71 *YBFZ* (2024) 99 ALJR 1 at [16] (Gageler CJ, Gordon, Gleeson and Jagot JJ) quoting *Alexander* (2022) 276 CLR 336 at [104]-[105] (Gageler J).

72 See especially *YBFZ* (2024) 99 ALJR 1 at [13]-[14], see also [12], [15], [18] (Gageler CJ, Gordon, Gleeson and Jagot JJ), and see more generally *EGH19 v Commonwealth* (2026) 100 ALJR 400 at [24] (Gageler CJ and Gleeson J), [67]-[74], [78] (Gordon J), [292] (Jagot J).

73 *YBFZ* (2024) 99 ALJR 1 at [18] (Gageler CJ, Gordon, Gleeson and Jagot JJ).

more readily be satisfied in respect of powers to impose detriments on bodies corporate. As Beech-Jones J explained in *YBFZ*:[74]

> the more severe the detriment and the more closely it is associated with punishment, the narrower the range of legitimate purposes for imposing the detriment and the more difficult it will be to characterise the power to impose it as reasonably capable of being seen as necessary for such a purpose.

45. It follows from the above that, conversely, if the detriments capable of being imposed upon bodies corporate are less severe and less closely associated with punishment than those which may be imposed on natural persons, the range of legitimate purposes for the exercise of the power to impose those detriments should be broader, and the power should more readily be characterised as reasonably capable of being seen as necessary for such a purpose.

PART V — ESTIMATE OF TIME

46. The Attorney-General estimates that she will require 15 minutes to present oral argument.

Dated: 21 August 2026

Alistair Pound SC
Solicitor-General for Victoria
(03) 9225 8249
alistair.pound@vicbar.com.au

Sarah Zeleznikow
(03) 9225 6436
sarahz@vicbar.com.au

[74] *YBFZ* (2024) 99 ALJR 1 at [239], see also, more generally, at [321].

IN THE HIGH COURT OF AUSTRALIA
MELBOURNE REGISTRY

BETWEEN:

WHITE AUSTRALIA PARTY INC
First Plaintiff

THOMAS ANTHONY SEWELL
Second Plaintiff

and

THE COMMONWEALTH OF AUSTRALIA
First Defendant

THE ATTORNEY-GENERAL OF THE COMMONWEALTH
Second Defendant

ANNEXURE TO THE SUBMISSIONS OF VICTORIA

Pursuant to *Practice Direction No 1 of 2024*, Victoria sets out below a list of the particular constitutional provisions, statutes and statutory instruments referred to in its submissions.

No.	Description	Version	Provision(s)	Reasons	Applicable date(s)
Principal legislation					
1.	*Commonwealth Constitution*	Compilation No 6 (29 July 1997 to present)		Currently in force	N/A
2.	*Criminal Code Act 1995 (Cth)*	Compilation No 174 (30 June 2026 to present)	s 5; Sch, Pt 5.3B	Currently in force	N/A
Other legislation					
3.	*Acts Interpretation Act 1901* (Cth)	Compilation No 38 (11 December 2024 to present)	s 15A	Currently in force, governs interpretation of legislation	N/A

No.	Description	Version	Provision(s)	Reasons	Applicable date(s)
4.	*Associations Incorporation Reform Act 2012* (Vic)	Version 18 (10 March 2021 to present)	s 135	Currently in force	N/A
5.	*Constitution of the United States*	Current	Fourteenth Amendment	Illustrative purposes only	N/A
6.	*Criminal Code (Prohibited Hate Group—White Australia) Regulations 2026* (Cth)	As made	All	Currently in force	N/A
7.	*Migration Act 1958* (Cth)	Compilation No C162 (14 October 2024 to 4 December 2024)	s 501(6)(d)(iv)	Version considered in *Farmer v Minister for Home Affairs* (2025) 99 ALJR 1408	25 October 2024